



Senate

General Assembly

File No. 152

February Session, 2002

Substitute Senate Bill No. 360

Senate, March 26, 2002

The Committee on Public Health reported through SEN. HARP of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING NOTICE AND PUBLIC HEARING PRIOR TO A NURSING HOME CLOSURE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-352 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2002*):

3 (a) For the purposes of this section and section 17b-353, "facility"
4 means a residential facility for the mentally retarded licensed pursuant
5 to section 17a-277, as amended, and certified to participate in the Title
6 XIX Medicaid program as an intermediate care facility for the mentally
7 retarded, a nursing home, rest home or residential care home, as
8 defined in section 19a-490, as amended.

9 (b) Any facility which intends to (1) transfer all or part of its
10 ownership or control prior to being initially licensed; (2) introduce any
11 additional function or service into its program of care or expand an
12 existing function or service; or (3) terminate a service or decrease

13 substantially its total bed capacity, shall submit a complete request for
14 permission to implement such transfer, addition, expansion, increase,
15 termination or decrease with such information as the department
16 requires to the Department of Social Services. The office of the Long-
17 Term Care Ombudsman pursuant to section 17b-400 shall be notified
18 by the facility of any proposed actions pursuant to this subsection at
19 the same time as the request for permission is submitted to the
20 department.

21 (c) An applicant, prior to submitting a certificate of need
22 application, shall request, in writing, application forms and
23 instructions from the department. The request shall include: (1) The
24 name of the applicant or applicants; (2) a statement indicating whether
25 the application is for (A) a new, additional, expanded or replacement
26 facility, service or function, (B) a termination or reduction in a
27 presently authorized service or bed capacity or (C) any new, additional
28 or terminated beds and their type; (3) the estimated capital cost; (4) the
29 town where the project is or will be located; and (5) a brief description
30 of the proposed project. Such request shall be deemed a letter of intent.
31 No certificate of need application shall be considered submitted to the
32 department unless a current letter of intent, specific to the proposal
33 and in accordance with the provisions of this subsection, has been on
34 file with the department for not less than ten business days. For
35 purposes of this subsection, "a current letter of intent" means a letter of
36 intent on file with the department for not more than one hundred
37 eighty days. A certificate of need application shall be deemed
38 withdrawn by the department, if a department completeness letter is
39 not responded to within one hundred eighty days. The office of the
40 Long-Term Care Ombudsman shall be notified by the facility at the
41 same time as the letter of intent is submitted to the department.

42 (d) Any facility acting pursuant to subdivision (3) of subsection (b)
43 of this section shall provide written notice, at the same time it submits
44 its letter of intent, to all patients, guardians or conservators, if any, or
45 legally liable relatives or other responsible parties, if known, and shall
46 post such notice in a conspicuous location at the facility. The notice

47 shall state the following: (A) The projected date the facility will be
48 submitting its certificate of need application, (B) that only the
49 department has the authority to either grant, modify or deny the
50 application, (C) that the department has up to ninety days to grant,
51 modify or deny the certificate of need application, (D) a brief
52 description of the reason or reasons for submitting a request for
53 permission, (E) that no patient shall be involuntarily transferred or
54 discharged within or from a facility pursuant to state and federal law
55 because of the filing of the certificate of need application, (F) that all
56 patients have a right to appeal any proposed transfer or discharge, and
57 (G) the name, mailing address and telephone number of the office of
58 the Long-Term Care Ombudsman and local legal aid office.

59 [(d)] (e) The department shall review a request made pursuant to
60 subsection (b) of this section to the extent it deems necessary,
61 including, but not limited to, in the case of a proposed transfer of
62 ownership or control prior to initial licensure, the financial
63 responsibility and business interests of the transferee and the ability of
64 the facility to continue to provide needed services, or in the case of the
65 addition or expansion of a function or service, ascertaining the
66 availability of the function or service at other facilities within the area
67 to be served, the need for the service or function within the area and
68 any other factors the department deems relevant to a determination of
69 whether the facility is justified in adding or expanding the function or
70 service. The commissioner shall grant, modify or deny the request
71 within ninety days of receipt thereof, except as otherwise provided in
72 this section. Upon the request of the applicant, the review period may
73 be extended for an additional fifteen days if the department has
74 requested additional information subsequent to the commencement of
75 the commissioner's review period. The director of the office of
76 certificate of need and rate setting may extend the review period for a
77 maximum of thirty days if the applicant has not filed in a timely
78 manner information deemed necessary by the department. The
79 applicant may request and shall receive a hearing in accordance with
80 section 4-177 if aggrieved by a decision of the commissioner.

81 [(e)] (f) The Commissioner of Social Services shall not approve any
82 requests for beds in residential facilities for the mentally retarded
83 which are licensed pursuant to section 17a-227, as amended, and are
84 certified to participate in the Title XIX Medicaid Program as
85 intermediate care facilities for the mentally retarded, except those beds
86 necessary to implement the residential placement goals of the
87 Department of Mental Retardation which are within available
88 appropriations.

89 [(f)] (g) The Commissioner of Social Services shall adopt regulations,
90 in accordance with chapter 54, to implement the provisions of this
91 section. The commissioner shall implement the standards and
92 procedures of the Office of Health Care Access concerning certificates
93 of need established pursuant to section 19a-643, as appropriate for the
94 purposes of this section, until the time final regulations are adopted in
95 accordance with said chapter 54.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>

PH *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Fund-Type	Agency Affected	Current FY \$	FY 03 \$	FY 04 \$
GF - Cost	Dept of Social Services	None	Potential Minimal	Potential Minimal

Municipal Impact: None

Explanation

This bill requires nursing homes, intermediate care facilities for the mentally retarded, rest homes or residential care homes to notify the Office of the Long-Term Care Ombudsman when submitting a "request for permission" under the Certificate of Need (CON) process. The bill also requires such facilities to provide notice to all patients, guardians or other responsible parties upon submission of a CON letter of intent to terminate a service or substantially reduce bed capacity.

The bill's requirement to provide notice will result in increased administrative costs to such facilities related to the preparation and distribution of the notice. To the extent that these increased costs are passed on to the state through future Medicaid rates, an additional cost to the Department of Social Service may result. However, any such additional cost would be minimal.

OLR Bill Analysis

sSB 360

***AN ACT CONCERNING NOTICE AND PUBLIC HEARING PRIOR TO
A NURSING HOME CLOSURE*****SUMMARY:**

This bill establishes notification requirements for nursing homes and other health care facilities undertaking activities that require a certificate of need (CON) from the Department of Social Services (DSS). It requires any nursing home, intermediate care facility for the mentally retarded, rest home, or residential care home submitting a "request for permission" (the initial step in the CON process) to DSS to concurrently notify the Office of the Long-Term Care Ombudsman.

The bill also requires the facility to notify the ombudsman's office at the same time it submits its CON letter of intent to DSS. Facilities submitting a CON letter of intent to terminate a service or decrease its bed capacity substantially (e.g. closure of a facility) must also concurrently notify in writing all patients, guardians or conservators, or legally liable relative or other responsible party, if known. The facility must post a notice in a conspicuous location at the facility.

EFFECTIVE DATE: October 1, 2002

**NOTICE OF SERVICE TERMINATION OR SUBSTANTIAL BED
DECREASE**

The required notice must state (1) the projected date the facility will be submitting its CON application; (2) that only DSS has the authority to grant, modify, or deny the application; (3) that DSS has up to 90 days to act on it; (4) the reasons for submitting the request; (5) that no patient can be involuntarily transferred or discharged within or from a facility under state or federal law because it files for a CON; (6) that all patients have a right to appeal any proposed transfer or discharge; and (7) the name, mailing address, and telephone number of the ombudsman's office and the local legal aid office.

BACKGROUND***Certificate of Need (CON)***

Under the CON program, DSS reviews a facility's (1) transfer of all or part of its ownership or control prior to licensure; (2) introduction of any additional function or service into its program of care or expansion of an existing function or service; or (3) termination of a service or substantial decrease in its total bed capacity. The facility seeking to do any of these must submit a complete request for permission to do so with DSS. Then, the facility must file a CON application, using DSS forms and instructions. If the application is approved, the CON is granted.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 25 Nay 0